



Statement of

**AMERICAN PUBLIC POWER ASSOCIATION,
LARGE PUBLIC POWER COUNCIL, and
TRANSMISSION ACCESS POLICY STUDY GROUP**

**To the
U.S. Department of Energy**

**In relation to the October 6, 2014
“QER Public Stakeholder Meeting:
Financing Energy Infrastructure (Transmission, Storage, and Distribution)”**

The American Public Power Association (APPA), Large Public Power Council (LPPC), and Transmission Access Policy Study Group (TAPS) appreciate the opportunity to submit this statement in relation to the October 6, 2014 “QER Public Stakeholder Meeting: Financing Energy Infrastructure (Transmission, Storage, and Distribution).”

APPA is the national service organization representing the interests of more than 2,000 municipal and other state- and locally-owned, not-for-profit electric utilities (“public power utilities”) throughout the United States (all but Hawaii). Collectively, public power utilities deliver electricity to one of every seven U.S. electricity consumers (more than 47 million people). Our members serve some of the nation’s smallest towns—roughly four out of five public power utilities serve 10,000 or fewer customers—and largest cities, including Los Angeles and Orlando.

LPPC represents 26 of the largest locally owned and operated not-for-profit electric systems in the United States. Our member utilities are located in 12 states and Puerto Rico and own and operate more than 86,000 megawatts of generation capacity and more than 35,000 circuit miles of high voltage transmission lines. LPPC member utilities supply electricity to some of the largest cities in the country including Los Angeles, Seattle, Omaha, Phoenix, Sacramento, Jacksonville, San Antonio, Orlando and Austin.

TAPS is an association of transmission-dependent utilities in more than 35 states, promoting open and non-discriminatory transmission access. The majority of TAPS members are public power utilities, which use tax-exempt municipal bonds to build needed transmission and distribution infrastructure.

The question of the day is how to make certain infrastructure investments (in the case of electric utilities generally non-generating infrastructure) “bankable.” These remarks will focus primarily on the issue of whether tax policy changes could negatively affect these investments. We believe the answer is clearly “yes,” and, specifically, that changes to the current federal tax treatment of municipal bonds could reduce the ability of public power utilities to fund necessary infrastructure improvements. Conversely, updating

current private use rules for municipal bonds could increase public power utilities' ability to make these investments. A stable and rational regulatory environment would also promote investments from all sectors, including public power.

Municipal Bonds

Since their establishment in the late 19th century, public power utilities have issued municipal bonds¹ to raise the vast majority of their upfront capital, the cost of which is repaid over time by customers as a portion of their rates. For example, in 1906, when Nebraska's Grand Island Electric Company and Grand Island Gas Company would not make the investment to increase power service to 24 hours a day, voters approved a \$35,000 issuance to purchase lines and poles from the company and to build an electric light plant.² Likewise in 1919, Oshkosh, Nebraska, residents voted 201 to 3 for a \$5,000 bond issue to buy the Oshkosh Electric Light Company and to pay for a new, city-owned light plant.³ In the last decade, nearly 1,400 power-related municipal bonds providing roughly \$110 billion in new money financing were issued.⁴

Interest on municipal bonds generally is exempt from federal income tax and, so, investors generally accept a lower rate of return than they would otherwise demand from issuers of taxable debt.⁵ Investors also purchase municipal bonds because of the stability of the municipal bond market and because of their extremely low rate of default.⁶

Historically, the spread between comparable tax-exempt municipal bonds and taxable corporate bonds has been about 1.4 percentage points.⁷ Adjusting for the cost of "call" provisions,⁸ the historic municipal-bond-to-corporate-bond spread would have been closer to 1.8 percentage points. For example, the lifetime cost of a \$100 million, 30-year, tax-exempt municipal bond issued at 5.12 percent would cost \$253 million over the life of the bond (including the final payout of principal). Conversely, the lifetime cost of a \$100 million, 30-year taxable bond (with an optional call) issued at 6.93 percent would cost

¹ A municipal bond is generally any bond issued by a state or local entity. While the term generally is used to refer to bonds the interest on which is exempt from federal income tax, it can also refer to a taxable bond, or a private activity bond. These comments will provide greater specificity when necessary for clarity, e.g., by referring to a tax-exempt municipal bond, a taxable municipal bond, etc.

² Don Schaufelberger & Bill Beck, *The Only State: A History of Public Power in Nebraska*, 40 (2010).

³ *Id.* at 41.

⁴ The Bond Buyer & Thomson Reuters, 2014 Yearbook (2014); The Bond Buyer & Thomson Reuters 2009 Yearbook (2009)(providing data on new money bond issuances). Note, during the same time period, the total number of power-related bond issuances, including bonds refunding prior issuances, was 2,117.

⁵ Peter Fortune, *The Municipal Bond Market, Part I: Politics, Taxes, and Yields*, 13-36 (Sept. 1991).

⁶ Randall Forsyth, Barron's, "Fed Exaggerates Muni Default Risk" (Aug. 2012)(finding that the par value of municipal bonds in default in the wake of the 2008 global financial meltdown hit a peak of just 0.11 percent of par value outstanding; that from 1970 to 2009, investors in defaulted municipal bonds eventually recovered an average of \$67 per \$100 of par value, compared to the \$44.60 per \$100 recovered by investors in defaulted corporate bonds).

⁷ Economic Report of the President 386 (May 2014)(Table B-17. Bond yields and interest rates, 1942-2014).

⁸ A call provision on a bond allows the issuers to repurchase (i.e. "call") the bond from the bondholder and, so, retire the debt. According to data provided by the Securities Industry and Financial Markets Association, the overwhelming majority of tax-exempt municipal bond issuances include call provisions. By comparison, a corporate bond will tend not to include a call provision, and, if the bond does, the call is generally a "make whole call" which is much more expensive for the issuer to execute.

\$308 million over the life of the bond (including the final payout). In other words, there would be a \$54 million (21 percent) difference in the lifetime cost of a \$100 million project.⁹

An added advantage of municipal bonds as a source of state and local financing is that the need for, and terms of, financing are determined by state and local citizens, either directly through a vote on a bond initiative or through their elected representatives. Additionally, significant flexibility is afforded to state and local government issuers compared to issuers of taxable debt, including the term of the issue, the debt structure, and the ability to optionally call fixed rate debt after 10 years.

Public power utilities borrowing costs are also reduced by virtue of credit strength, with a median A+ credit rating, compared to A- and BBB+ for rural electric cooperatives and investor-owned utilities respectively.¹⁰

Taxable Bonds

Public power utilities can, and do, issue taxable debt. Historically about 5 percent of annual power-related issuances are taxable. Generally, taxable debt is issued as a supplement to financing provided by tax-exempt debt. Taxable debt attracts a different pool of investors and can more readily be used to refinance past debt. Also, taxable debt is not subject to the same private activity rules limiting the use of tax-exempt debt. (See below for a further discussion of private activity rules.)

Since the 2008 global financial meltdown, there has been an uptick in the issuance of taxable debt—to about 15 percent of annual power-related bond issuances. This has been driven by a variety of inter-related factors including low interest rates on debt of all kinds, the narrow spread between taxable and tax-exempt debt, an increased focus on refinancing high-cost past debt, and flat electric load. APPA believes the factors leading to the rise in taxable issuances are temporary and that the ratio of taxable-to-tax-exempt debt will return to historic norms.

Other considerations also limit the use of taxable bonds by municipal issuers. Issuers are subject to more restrictions on the terms of debt issued in the taxable market. For example, an issuer is effectively precluded from refinancing taxable debt to take advantage of an interest rate decrease.¹¹

There is consensus that just as the tax exclusion for municipal bond interest reduces borrowing costs¹² (even from those who are seeking to eliminate or alter the current tax exclusion¹³), so eliminating that

⁹ The example uses the actual index interest rates recorded in 1998, with the taxable bond rate increased by 0.4 percent to adjust for the cost of including an optional call.

¹⁰ Standard & Poor's Ratings Services, Slide Deck from "Electric Cooperative and Public Power Hot Topics Conference" (May 7, 2013).

¹¹ *Supra* note 8.

¹² Fortune, *supra* note 4 at 19.

¹³ Frank Sammartino, Congressional Budget Office, Testimony before the U.S. Senate Finance Committee Hearing on "Federal Support for State and Local Governments through the Tax Code" (Apr. 25, 2012)(stating that the tax exclusion for municipal bonds is "inefficient" because, of the revenue foregone, just 80 percent serves to reduce state and local borrowing costs, with the remaining 20 percent providing a windfall to investors). *But see* George Friedlander, Citi, "The Tax Exemption of Municipal Bonds: A Much More Efficient Financing Mechanism Than Government Analyses Suggest" (Jan. 17, 2013)(stating that exclusion does reduce borrowing cost, but is not inefficient); James M. Poterba & Arturo Ramirez Verdugo, "Portfolio Substitution and the Revenue Cost of Exempting State and Local Government Interest Payments from Federal Income Tax" *NBER Working Paper 14439* (Oct. 2008).

exclusion would increase borrowing costs.¹⁴ A recent financial report put it succinctly: the results of a new tax on municipal bonds would be “fewer critical projects, diminished effectiveness of scaled-back projects, and almost certainly higher local taxes and fees.”¹⁵

Estimates of the increased cost to issue taxable debt vary and generally are based on the historic spread between corporate taxable debt and municipal tax-exempt debt. Analysis prepared for APPA using 2012 market data estimated that the annual cost of borrowing for a large municipal issuer would be nearly 1.50 percentage points higher for a taxable issuance than for a tax-exempt issuance and for a smaller municipal issuer would be 1.66 percentage points higher.¹⁶ Also, flexibility unique to municipal bonds would be lost or would come at a premium in the taxable market. These include the ability to call bonds prior to maturity to take advantage of changes in interest rates (discussed above) and to issue “laddered”¹⁷ bonds to match revenues and project life.

Market and Regulatory Safeguards

State and local governments have used bonds as a financing tool for centuries, although the first recorded general obligation municipal bond was not issued until 1812. Following a series of Supreme Court decisions,¹⁸ municipal bond interest generally has been exempt from federal income tax since the tax code’s inception.¹⁹

As a result, there is a longstanding and comprehensive federal legislative and regulatory system in place to regulate the tax-exempt bond market. Both the Internal Revenue Service (IRS) and the Security and Exchange Commission (SEC) have active enforcement programs for state and local bonds to help ensure that applicable rules are satisfied. Federal tax laws also significantly limit the entities that can issue tax-exempt bonds, the purposes for which the bonds may be issued, and the investment of bond proceeds. (See below for further discussion of private use rules.)

The SEC and Municipal Securities Rulemaking Board regulate the manner in which state and local governments may sell their bonds and provide rules on the types of disclosure required in connection with the sale of municipal bonds, as well as ongoing annual and material event disclosure. Significant market-based safeguards also prevent state and local issuers from irresponsibly issuing bonds or using bond financing for ill-advised projects.

This longstanding regulatory framework coupled with the incredible stability of municipal bonds in

¹⁴ Gabriel Petek et al., Standard & Poors “Cutting Popular U.S. Tax Programs Could Harm Tax-Exempt Bond Issuers” (Aug. 19, 2013); James Spiotto “The Renewed Battle Over the Tax Exemption of Interest on State and Local Government Debt Obligations” Government Finance Review (Feb. 2013) 24-30.

¹⁵ Ronald Bernardi et al., Bernardi Securities Inc. “Repealing Tax-Exemption: Impact on Small and Medium-Sized Communities” 1 (Feb. 2013).

¹⁶ BLX Group LLC, “Tax Reform Proposal Analysis: Impact on Tax-Exempt Bond Financing,” prepared for American Public Power Association 6 (Jan. 28, 2013).

¹⁷ A “laddered” bond issuance is one consisting of a series of bond issuances with differing maturities, for example, maturities ranging from one year to 30 years. A taxable bond issuance tends to be a “bullet” bond, i.e., a bond issuance with a single maturity.

¹⁸ *Pollock v. Farmers’ Loan & Trust Co.* (157 U.S. 429 (1895))(stating that a federal tax on municipal bond interest “is a tax on the power of the states and their instrumentalities to borrow money, and consequently repugnant to the constitution.”)

¹⁹ Revenue Act of 1913, ch. 16, 38 Stat. 114, 166.

general²⁰ has allowed the market to accommodate a vast number of issuers. Close to 42,000 state and local governments issue debt in this market.²¹ By comparison, roughly 5,000 corporations issue debt in the taxable market. The municipal bond market also accommodates issues that vary significantly in size and rating. From 2002 to 2011, the median municipal issuance was \$7 million.²² By comparison, the median corporate bond issue was \$210 million.

Eliminating or substantially altering the tax treatment of municipal bond interest would increase costs and disrupt this regulatory framework and the municipal bond market as a whole. Larger issuers likely could seek financing in the taxable bond market at a higher cost and with all the limits discussed above, but the vast majority of issuers likely would be forced to seek bank financing—a still more costly, less flexible financing alternative.²³

Alternatives to Current Law Treatment of Municipal Bonds

Despite the consensus that taxing municipal bond interest would increase financing costs, some are still seeking to eliminate, alter, or limit the exclusion. Some favor a tax on municipal bonds precisely because it will discourage state and local spending;²⁴ some say the damage of such a tax can be mitigated; and some are simply seeking to raise federal revenues by shifting costs to states and localities.

28 Percent Tax Cap

A 28 percent tax “cap” as proposed by the current administration would effectively impose a surtax of up to 15.4 percent on otherwise tax-exempt municipal bond interest paid to upper-income earners. Ostensibly, this would only affect those paying the surtax. The administration has failed to provide analysis to support this proposition, while publicly available analyses find that a surtax would increase state and local borrowing costs.²⁵ First, because a significant portion of potential bond holders would be subject to this new surtax, the value of municipal bonds in the secondary market would fall.²⁶ As a result, all potential investors would demand a premium on new issuances both as compensation for the direct loss of net earnings due to the 28 percent cap, but also as compensation for the downward pressure on secondary market value. An additional risk premium would be demanded to compensate for possible future tax rate increases. Finally, because tax-exempt municipal bonds would become a “hybrid

²⁰ S&P Dow Jones, “2013 Municipal Bond Default Rate Falls to 0.107%” (Jan. 3, 2014)(reporting that the post-global-financial-meltdown peak default rate for investment grade municipal bonds was 0.227%).

²¹ U.S. Sec. Exch. Comm’n, “Report on the Municipal Securities Market,” 1 (July 31, 2012).

²² Securities Industry and Financial Markets Association (data provided to APPA).

²³ Alan Schankel & Tom Kozlik, Janney Montgomery Scott, “Municipal Bond Market Note: The Threat to Tax-Exemption” 5 (Oct. 19, 2012).

²⁴ Scott Hodge, Tax Foundation, For the Sake of Tax Reform, the Muni Bond Exemption (and State Tax Deduction) Must Go” Forbes (Mar. 21, 2013); Editorial, Wall Street Journal, Mathematically Possible: Correcting the false assumptions of Obama’s tax gurus” (Aug. 15, 2012). *See also*, Eric Gouvin, Radical Tax Reform, Municipal Finance, and the Conservative Agenda, 56 Rutgers L. Rev. 409 2003-2004 (proposing that such opinions are not isolated but “part of a strategy consistent with conservative thinking to reduce the size of government”).

²⁵ BLX, *supra* note 10 (stating that a 28 percent cap would increase financing costs for a larger issuer by 77 basis points, while a smaller issuer’s costs would increase by 92 basis points); George Friedlander, Citi, “Muni Issuers and the Current Market Environment: Threats, Challenges and Opportunities” 10 (Mar. 31, 2012)(stating that a 28 percent cap would increase financing costs by as much as 75 basis points); John Hallacy & Tian Xia, Bank of America, “Munis & Derivatives Data 02/13/12” 1 (Feb. 13, 2012)(stating that a 28 percent cap could increase financing costs by as much as 40 basis points).

²⁶ ETF Trends “Muni Bond ETFs Tumble on Tax-Break Speculation” (Dec. 14, 2013) (<http://finance.yahoo.com/news/muni-bond-etfs-tumble-tax-181300222.html>)(last visited Mar. 28, 2013).

investment”—that is, depending on the tax status of the purchaser either all or some of the interest would be excluded from federal gross income—they would become more complex, requiring more lengthy and comprehensive disclosure and increased borrowing and transaction costs.

You only need to look to the Alternative Minimum Tax (AMT) to prove the point. The AMT imposes on upper-income earners a surtax on private activity bond interest and other “preference” items. As a predictable result, the cost to issue a private activity bond is about 50 basis points (0.5 percentage points) more than for a comparable tax-exempt bond.²⁷

Tax Credit Bonds

Some propose holding issuers harmless by replacing municipal bonds with tax credit bonds. Tax credit bonds are taxable obligations in which the investor receives a tax credit in lieu of tax-exempt interest. Build America Bonds (BABs), Clean Renewable Energy Bonds (CREBs), and Qualified Energy Conservation Bonds can be issued as tax credit bonds. They are sophisticated debt instruments that have traditionally been purchased by investment banks for their own account.

The tax credit rate is set daily by the Treasury Department based on the average “AA” corporate rated debt. This “one-size-fits-all” coupon approach has led to either discounting of the bond upon issuance or a requirement that issuers pay additional interest to increase the yield on the bonds in order to attract investors.

In 2008, tax credit bonds were modified to allow investors to separate (or “strip”) the tax credits from the bond and sell them separately. However, because the logistics of stripping is complex, investors discount the value of both the credits and the remaining bond. Investors further discount the value of tax credit bonds to reflect additional costs and risks, including the risk that the investor may not have a federal tax liability in later years against which to use the credits.

Because of these difficulties, the demand for tax credit bonds has been limited and issuers have been reluctant to rely on them.²⁸ Likewise, tax credit bonds are also subject to federal budget pressures, i.e. the pressure to cut the tax credit to bondholders to save federal revenue. If tax credits were reduced, potential bond investors would demand higher interest rates on new issuances—and likely demand an additional “risk premium” to guard against still further tax credit cuts.

Direct Payment Bonds

Some are also proposing taxing municipal bond interest, but allowing state and local governments to issue “direct payment bonds.” Direct payment bonds are government purpose bonds the interest on which is taxable to the bond holder, but for which state and local government issuers receive a direct federal payment (generally set at a percentage of the interest rate paid to bond holders).

BABs were able to be issued as direct payment bonds from February 17, 2009, through December 31, 2010. The reimbursement rate for these bonds was set at 35 percent. Of the \$843 billion in municipal bonds issued in 2009 and 2010, roughly \$181 billion were direct payments BABs. This unprecedented willingness of municipal issuers to issue taxable debt stemmed in large part because of the reimbursement

²⁷ Steven Maguire, Cong. Research Serv., RL31457, Private Activity Bonds: An Introduction (2006).

²⁸ Of 29,315 municipal bonds reported to the IRS in 2010, just 199 were tax credit bonds (http://www.irs.gov/file_source/pub/irs-soi/10bd11arra.xls) (last visited Mar. 29, 2013).

rate though also in part because of the unusual difficulties being experienced in the municipal market which the expanded pool of investors provided by issuing taxable debt helped overcome.

CREBs were intended to provide state and local issuers and rural electric cooperatives the same incentives to invest in renewable projects as was provided by the production tax credit. The original program was a tax credit bond program, but after very limited success, a new version of the CREB program (New CREBs) was created in 2008 and modified in 2010 to allow issuers the option of receiving a direct payment from Treasury in lieu of providing bond holders a tax credit.

Although direct pay bonds may appear to be a more efficient means of providing a federal subsidy to issuers of state and local bonds, the payment levels being discussed in recent proposals would result in an increase in state and local issuer financing costs.²⁹

Also, sequestration of direct payment bond payments³⁰ has confirmed concerns that the federal government can change the amount of the subsidy payment to issuers after issuers have borrowed in reliance on the expectation of full direct subsidy payments. This has significantly damaged issuers' willingness to consider direct payment bonds as an alternative. It will also almost certainly increase the cost of issuance for future direct payments bonds, as issuers insist on call provisions in case the government again cuts the amount of payments to issuers.

Despite the obvious shortcomings of a direct payment bond as a replacement for tax-exempt municipal bond financing, a direct payment bond could provide a useful complement to tax-exempt municipal bonds, if the reasonable distrust of issuers about the reliability of payments can be addressed.

Private Use Rules and Private Activity Bonds

A municipal bond issued for governmental purposes is exempt from federal tax. Conversely, a bond that finances "private use"³¹ generally is not exempt from federal income tax. These private use rules are particularly restrictive for public power utilities. For example, for a power-related bond issuance, no more than \$15 million (or 10% of the size of the borrowing, if 10 percent of the size of the borrowing is less than \$15 million) of the proceeds can go to the benefit of private use.³² In addition, only up to \$15 million per project is permitted.³³ Furthermore, IRS implementation of these private use rules prevent issuers from using tax-exempt bonds to build facilities large enough to meet not just current needs, but future needs. Likewise, private use rules severely limit the ability of municipal utilities to acquire existing privately-owned, power-related assets with tax-exempt municipal bonds.³⁴

A state or local bond that exceeds these private use limits is considered a private activity bond and, generally, is subject to federal tax. However, a private activity bond is considered an exempt facility

²⁹ BLX, *supra* note 10 (stating that a 28 percent cap would increase financing costs for a larger issuer by 77 basis points, while a smaller issuer's costs would increase by 92 basis points) (stating that a 25 percent direct payment bond would increase financing costs by 51 basis points for a large issuer and 58 basis points for a small issuer).

³⁰ Office of Mgmt. & Budget, Exec. Office of the President, OMB Report to the Congress on the Joint Committee Sequestration for Fiscal Year 2013 48 (Mar. 1, 2013).

³¹ 26 U.S.C. 141(b)(6). The definition of "private use" generally means the use of bond proceeds by a private business, i.e., not by a governmental unit. "Private use" does not include use as a member of the general public.

³² 26 USC 141(b)(2); 26 USC 141(b)(4).

³³ 26 USC 141(b)(6).

³⁴ 26 USC 141(d).

bond³⁵ if it is issued to finance certain permitted facilities. A permitted facility can include an airport, dock, wharf, mass-transit facility, multi-family housing or solid waste disposal facility. An exempt facility can also be a facility furnishing “local electric energy,” but the exception is very narrow—applying only to facilities furnishing electric energy to either a) a city and one contiguous county or b) two contiguous counties.³⁶ As a result of these constraints, power-related private activity bonds (i.e. exempt facility bonds) are relatively rare.³⁷

As part of the broader discussion of infrastructure investments, there is growing interest in public-private partnerships (increasingly referred to simply as “P3”). Financial incentives to enter such arrangements include direct grants, subsidized loans, and loan guarantees. Some are also proposing relaxing current private activity bond rules to allow greater use of exempt facility bonds to finance private projects. Again, public power utilities do not tend to issue private activity bonds and a loosening of private activity bond rules would generally be of little benefit.

However, re-examining private activity rules to increase public power utilities’ ability to make infrastructure investments could be helpful.

A related issue is the taxation of capital contributions by public power utilities to investor-owned utilities (IOUs) to build facilities (e.g., interconnections and associated facilities, transformers, circuits, etc.) to serve the public power utility’s retail demand (“load”). These capital contributions are treated as taxable “contributions-in-aid of construction” to the IOU.¹⁵¹ Because the IOU traditionally requires the municipal utility to “gross up” its contribution, the cost of the investment is effectively increased by as much as 35 percent. Again, re-examining this rule would help cooperative investments.

Conclusion

There is clearly capital available in the market to finance necessary infrastructure investments.³⁸ Eliminating the threat of a tax on municipal bonds and modernizing private use rules are just two specific examples of how to make infrastructure investments more “bankable.” Likewise, new financing tools, such as a direct payment bond, could complement tax-exempt municipal bonds by expanding the pool of investors for power-related infrastructure investments by public power utilities.

Speaking more broadly, stakeholders believe a clear, stable, and rational regulatory environment will encourage these investments.³⁹ Recent actions of federal regulators mean energy market participants and their investors face the risk that: investments will be rendered obsolete by new regulations; they will be whip-sawed by inconsistent policy objectives, leaving them unable to make coherent decisions;

³⁵ The nomenclature can be confusing. Under the Internal Revenue Code, a private activity bond is as a bond which exceeds private activity limits and, thus, generally is subject to federal income tax. However, when people talk about a “private activity bond” they generally mean a private activity bond used to finance an exempt facility, i.e., a bond that is exempt from federal income tax, but subject to the AMT. Exempt-facility bonds are also referred to as “AMT Bonds” or as “qualified bonds.”

³⁶ 26 USC 142(f).

³⁷ *Supra* note 3 (including data showing that of the 2,117 power-related bonds issued from 2004 to 2013, just 52 were exempt-facility bonds).

¹⁵¹ 26 USC 118(b).

³⁸ The White House, Office of the Press Secretary, “Fact Sheet: Building a 21st Century Infrastructure” (July 17, 2014)(stating that there is potentially “hundreds of billions to fund the building of U.S. public-private infrastructure”).

³⁹ U.S. Dept. of Energy, Quadrennial Energy Review Public Stakeholder Meeting: Financing Energy Infrastructure (Transmission, Storage, and Distribution) (Oct. 6, 2014).

and policy decisions will limit the portfolio diversity which is foundational to credit strength. While not a federal matter, the ability to recoup transmission and distribution investment costs is also at risk if the costs to utility operators of distributed generation cannot be fairly and adequately allocated. Again, overburdening customers with capital costs (in this case non-distributed generation customers) will leave investors concluding that capital investments cannot be sustained and discourage willingness to invest.

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CONTACT INFORMATION:

American Public Power Association

2451 Crystal Dr., Suite 1000
Arlington, VA 22202

Contact:
John Godfrey
jgodfrey@publicpower.org
(202) 467-2929

Large Public Power Council

1050 Thomas Jefferson St. NW 17th Floor
Washington, D.C. 20007

Contact:
Lane Dickson
lane.dickson@srpnet.com
202-898-8089

Transmission Access Policy Study Group

1425 Corporate Center Dr.
Sun Prairie, WI 53590

Contact:
Deborah Sliz
dsliz@morganmeguire.com
202-661-6192